

negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament”.

(3) **SUBMISSION TO DEPARTMENT OF DEFENSE.**—Not later than 180 days after the date of the enactment of this Act, the National Academy of Sciences shall submit to the Secretary a report containing the findings of the study conducted under paragraph (1).

(4) **SUBMISSION TO CONGRESS.**—Not later than 210 days after the date of the enactment of this Act, the Secretary shall transmit to the appropriate congressional committees the report required by paragraph (3), without change.

(5) **FORM.**—The report required by paragraph (3) shall be submitted in unclassified form, but may include a classified annex.

(d) **APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.**—In this section, the term “appropriate congressional committees” means—

(1) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate; and

(2) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives.

SA 4172. Mr. MARKEY (for himself, Ms. SMITH, and Mr. MERKLEY) submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title XV, add the following:

SEC. 1548. RESTRICTION ON FIRST-USE STRIKE OF NUCLEAR WEAPONS.

(a) **FINDINGS AND DECLARATION OF POLICY.**—

(1) **FINDINGS.**—Congress finds the following:

(A) The Constitution gives Congress the sole power to declare war.

(B) The framers of the Constitution understood that the monumental decision to go to war, which can result in massive death and the destruction of civilized society, must be made by the representatives of the people and not by a single person.

(C) As stated by section 2(c) of the War Powers Resolution (Public Law 93-148; 50 U.S.C. 1541), “the constitutional powers of the President as Commander-in-Chief to introduce United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, are exercised only pursuant to (1) a declaration of war, (2) specific statutory authorization, or (3) a national emergency created by attack upon the United States, its territories or possessions, or its armed forces”.

(D) Nuclear weapons are uniquely powerful weapons that have the capability to instantly kill millions of people, create long-term health and environmental consequences throughout the world, directly undermine global peace, and put the United States at existential risk from retaliatory nuclear strikes.

(E) A first-use nuclear strike carried out by the United States would constitute a major act of war.

(F) A first-use nuclear strike conducted absent a declaration of war by Congress would violate the Constitution.

(G) The President has the sole authority to authorize the use of nuclear weapons, an order which military officers of the United States must carry out in accordance with their obligations under the Uniform Code of Military Justice.

(H) Given its exclusive power under the Constitution to declare war, Congress must provide meaningful checks and balances to the President's sole authority to authorize the use of a nuclear weapon.

(2) **DECLARATION OF POLICY.**—It is the policy of the United States that no first-use nuclear strike should be conducted absent a declaration of war by Congress.

(b) **PROHIBITION ON CONDUCT OF FIRST-USE NUCLEAR STRIKES.**—

(1) **PROHIBITION.**—No Federal funds may be obligated or expended to conduct a first-use nuclear strike unless such strike is conducted pursuant to a war declared by Congress that expressly authorizes such strike.

(2) **FIRST-USE NUCLEAR STRIKE DEFINED.**—In this subsection, the term “first-use nuclear strike” means an attack using nuclear weapons against an enemy that is conducted without the Secretary of Defense and the Chairman of the Joint Chiefs of Staff first confirming to the President that there has been a nuclear strike against the United States, its territories, or its allies (as specified in section 3(b)(2) of the Arms Export Control Act (22 U.S.C. 2753(b)(2))).

SA 4173. Mr. MARKEY submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title XV, add the following:

SEC. 1548. REDUCTIONS IN SPENDING ON NUCLEAR WEAPONS; PROHIBITION ON PROCUREMENT AND DEPLOYMENT OF LOW-YIELD NUCLEAR WARHEADS.

(a) **FINDINGS.**—Congress makes the following findings:

(1) The United States continues to maintain an excessively large and costly arsenal of nuclear delivery systems and warheads that are a holdover from the Cold War.

(2) The current nuclear arsenal of the United States includes approximately 3,800 total nuclear warheads in its military stockpile, of which approximately 1,750 are deployed with five delivery components: land-based intercontinental ballistic missiles, submarine-launched ballistic missiles, long-range strategic bomber aircraft armed with nuclear gravity bombs, long-range strategic bomber aircraft armed with nuclear-armed air-launched cruise missiles, and short-range fighter aircraft that can deliver nuclear gravity bombs. The strategic bomber fleet of the United States comprises 87 B-52 and 20 B-2 aircraft, over 60 of which contribute to the nuclear mission. The United States also maintains 400 intercontinental ballistic missiles and 14 Ohio-class submarines, up to 12 of which are deployed. Each of those submarines is armed with approximately 90 nuclear warheads.

(3) Between fiscal years 2021 and 2030, the United States will spend an estimated

\$634,000,000,000 to maintain and recapitalize its nuclear force, according to a January 2019 estimate from the Congressional Budget Office, an increase of \$140,000,000,000 from the Congressional Budget Office's 2019 estimate, with 36 percent of that additional cost stemming “mainly from new plans for modernizing [the Department of Energy's] production facilities and from [the Department of Defense's] modernization programs moving more fully into production”.

(4) Adjusted for inflation, the Congressional Budget Office estimates that the United States will spend \$1,700,000,000,000 through fiscal year 2046 on new nuclear weapons and modernization and infrastructure programs.

(5) Inaccurate budget forecasting is likely to continue to plague the Department of Defense and the Department of Energy, as evidenced by the fiscal year 2021 budget request of the President for the National Nuclear Security Administration “Weapon Activities” account, which far exceeded what the National Nuclear Security Administration had projected in its fiscal year 2020 request and what it had projected in previous years.

(6) The projected growth in nuclear weapons spending is coming due as the Department of Defense is seeking to replace large portions of its conventional forces to better compete with the Russian Federation and the People's Republic of China and as internal and external fiscal pressures are likely to limit the growth of, and perhaps reduce, military spending. As then-Air Force Chief of Staff General Dave Goldfein said in 2020, “I think a debate is that this will be the first time that the nation has tried to simultaneously modernize the nuclear enterprise while it's trying to modernize an aging conventional enterprise. The current budget does not allow you to do both.”.

(7) In 2017, the Government Accountability Office concluded that National Nuclear Security Administration's budget forecasts for out-year spending downplayed the fact that the agency lacked the resources to complete multiple, simultaneous billion dollar modernization projects and recommended that the National Nuclear Security Administration consider “deferring the start of or cancelling specific modernization programs”.

(8) According to the Government Accountability Office, the National Nuclear Security Administration has still not factored affordability concerns into its planning as was recommended by the Government Accountability Office in 2017, with the warning that “it is essential for NNSA to present information to Congress and other key decision maker indicating whether the agency has prioritized certain modernization programs or considered trade-offs (such as deferring or cancelling specific modernization programs)”.

(9) A December 2020 Congressional Budget Office analysis showed that the projected costs of nuclear forces over the next decade can be reduced by \$12,400,000,000 to \$13,600,000,000 by trimming back current plans, while still maintaining a triad of delivery systems. Even larger savings would accrue over the subsequent decade.

(10) The Department of Defense's June 2013 nuclear policy guidance entitled “Report on Nuclear Employment Strategy of the United States” found that force levels under the April 2010 Treaty on Measures for the Further Reduction and Limitation of Strategic Offensive Arms between the United States and the Russian Federation (commonly known as the “New START Treaty”) “are more than adequate for what the United States needs to fulfill its national security objectives” and can be reduced by up to ⅓ below levels under the New START Treaty to 1,000 to 1,100 warheads.